

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 140226-EI

REQUEST TO OPT-OUT OF COST
RECOVERY FOR INVESTOR-OWNED
ELECTRIC UTILITY ENERGY
EFFICIENCY PROGRAMS BY
WAL-MART STORES EAST, LP AND
SAM'S EAST, INC. AND FLORIDA
INDUSTRIAL POWER USERS GROUP.

_____ /

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONER
PARTICIPATING: CHAIRMAN ART GRAHAM
PREHEARING OFFICER

DATE: Tuesday, July 7, 2015

TIME: Commenced at 1:30 p.m.
Concluded at 2:02 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, CRR, RPR
Official FPSC Reporter
(850) 413-6734

1 APPEARANCES:

2 JESSICA CANO, ESQUIRE, 700 Universe
3 Boulevard, Juno Beach, Florida 33408, on behalf of
4 Florida Power & Light Company.

5 DIANNE M. TRIPLETT, ESQUIRE, 299 First Avenue
6 North, St. Petersburg, Florida 33701, and MATTHEW
7 BERNIER, ESQUIRE, 106 East College Avenue, Suite 800,
8 Tallahassee, Florida 32301-7740, appearing on behalf of
9 Duke Energy Florida, Inc.

10 JAMES D. BEASLEY, J. JEFFRY WAHLEN, ASHLEY M.
11 DANIELS, ESQUIRES, Ausley & McMullen, Post Office Box
12 391, Tallahassee, Florida 32302, appearing on behalf of
13 Tampa Electric Company.

14 JEFFREY A. STONE, RUSSELL A. BADDERS, and
15 STEVEN R. GRIFFIN, ESQUIRES, P.O. Box 12950, Pensacola,
16 Florida 32591-2950, appearing on behalf of Gulf Power
17 Company.

18 BETH KEATING, ESQUIRE, Gunster Law Firm, 215
19 South Monroe Street, Suite 601, Tallahassee, Florida
20 32301-1839, appearing on behalf of Florida Public
21 Utilities Company.

22 GEORGE CAVROS, ESQUIRE, 120 E. Oakland Park
23 Boulevard, Suite 105, Fort Lauderdale, Florida 33334,
24 appearing on behalf of Southern Alliance for Clean
25 Energy.

1 APPEARANCES (Continued):

2 ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III,
3 ESQUIRES, Gardner, Bist, 1300 Thomaswood Drive,
4 Tallahassee, Florida 32308, appearing on behalf of the
5 Wal-Mart Stores East, LP and Sam's East, Inc.

6 JAMES W. BREW, OWEN J. KOPON and LAURA A.
7 WYNN, ESQUIRES, Stone, Mattheis, Xenopoulos & Brew, PC,
8 1025 Thomas Jefferson Street, NW, Eighth Floor, West
9 Tower, Washington, DC 20007, appearing on behalf of
10 White Springs Agricultural Chemicals, Inc. d/b/a PCS
11 Phosphate - White Springs.

12 JON C. MOYLE, JR., and VICKI GORDON KAUFMAN,
13 ESQUIRES, Moyle Law Firm, P.A., 118 North Gadsden
14 Street, Tallahassee, Florida 32301, appearing on behalf
15 of Florida Industrial Power Users Group.

16 CHARLES REHWINKEL and PATRICIA A. CHRISTENSEN,
17 ESQUIRES, Office of Public Counsel, c/o The Florida
18 Legislature, 111 West Madison Street, Room 812,
19 Tallahassee, Florida 32399-1400, appearing on behalf of
20 the Citizens of Florida.

21 LEE ENG TAN, ESQUIRES, FPSC General Counsel's
22 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida
23 32399-0850, appearing on behalf of the Florida Public
24 Service Commission Staff.

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES (Continued):

MARY ANNE HELTON, DEPUTY GENERAL COUNSEL,
Advisor to the Commission, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee,
Florida 32399-0850.

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN GRAHAM: Good afternoon, everyone.

It feels kind of weird being in here at 1:30. Actually, it feels kind of weird being in here by myself. I'm not used to what prehearing officers do.

Let the record show this is a Prehearing Conference for Docket 140226-EI. The date is January (sic) the 7th, and so we will call this prehearing to order.

Staff, would you please read the notice.

MS. TAN: Yes. Although it is July 7th. You said January.

CHAIRMAN GRAHAM: My bad.

MS. TAN: By notice issued June 4th, 2015, this time and place is set for a Prehearing Conference in Docket No. 140226-EI. The purpose of the Prehearing Conference is set out in the notice.

CHAIRMAN GRAHAM: Okay. Let's take appearances.

MS. CANO: Good afternoon. Jessica Cano on behalf of Florida Power & Light Company.

MS. TRIPLETT: Good afternoon. Dianne Triplett on behalf of Duke Energy Florida. And I would like to make an appearance for Matthew Bernier as well.

MR. BEASLEY: Good afternoon, Chairman. James

1 D. Beasley, J. Jeffry Wahlen, and Ashley M. Daniels on
2 behalf of Tampa Electric Company.

3 **MR. GRIFFIN:** Good afternoon, Mr. Chairman.
4 Steven Griffin with the Beggs & Lane law firm on behalf
5 of Gulf Power Company. I'd also enter an appearance for
6 Jeffrey Stone and Russell Badders.

7 **MS. KEATING:** Good afternoon, Mr. Chairman.
8 Beth Keating with the Gunster law firm, and I'm here
9 today for Florida Public Utilities.

10 **MR. CAVROS:** Good afternoon, Chairman Graham.
11 George Cavros here on behalf of Southern Alliance for
12 Clean Energy.

13 **MR. WRIGHT:** Good afternoon, Mr. Chairman.
14 Robert Scheffel Wright on behalf of Wal-Mart Stores East
15 and Sam's East, Incorporated. I'd also like to enter an
16 appearance for my law partner John T. Lavia, III. Thank
17 you.

18 **MR. KOPON:** Good afternoon, Mr. Chairman.
19 Owen Copon for PCS Phosphate. I'd also like to make an
20 appearance for James Brew and Laura Wynn.

21 **MS. KAUFMAN:** Mr. Chairman, Vicki Gordon
22 Kaufman on behalf of the Florida Industrial Power Users
23 Group. And I would like to enter an appearance for Jon
24 Moyle.

25 **MS. CHRISTENSEN:** Good afternoon. Patty

1 Christensen, and I'd like to enter an appearance on
2 behalf of Charles Rehwinkel for the Office of Public
3 Counsel.

4 **CHAIRMAN GRAHAM:** Okay. Welcome, everybody.
5 I hope you all had a happy 4th weekend. That would be
6 4th of July.

7 **MS. TAN:** I'd like to also make an appearance
8 for staff. Lee Eng Tan on behalf of staff.

9 **MS. HELTON:** And Mary Anne Helton, and I'm
10 here to advise you today.

11 **MS. TAN:** Thank you.

12 **CHAIRMAN GRAHAM:** Okay. Preliminary matters.

13 **MS. TAN:** At this point there are none and
14 none are expected.

15 **CHAIRMAN GRAHAM:** Okay. Let's proceed through
16 the draft Prehearing Order. Are there any sections that
17 there need to be any corrections to or any changes made
18 to?

19 **MR. BEASLEY:** Mr. Chairman, Tampa Electric has
20 one suggested change in the order of witnesses, VI on
21 page 4 and 5.

22 **CHAIRMAN GRAHAM:** Okay.

23 **MR. BEASLEY:** We would ask that our witnesses,
24 Mark Roche and J. Terry Deason, appear after Gulf's
25 witness, John Floyd. And we've conferred with the

1 parties, and that's acceptable to them.

2 **CHAIRMAN GRAHAM:** So you want for Deason --
3 and what was the other one?

4 **MR. BEASLEY:** Mr. Roche on page 4.

5 **CHAIRMAN GRAHAM:** Okay.

6 **MR. BEASLEY:** They would both come right
7 after -- it would be Mr. Roche and then Mr. Deason after
8 Gulf's witness, John Floyd.

9 **CHAIRMAN GRAHAM:** Okay. I can do that.
10 Any other comments about those two
11 changes?

12 **MS. KAUFMAN:** Oh, no, not about those changes,
13 Mr. Chairman, but I have another comment.

14 **MR. WRIGHT:** Mr. Chairman?

15 **CHAIRMAN GRAHAM:** Yes, sir.

16 **MR. WRIGHT:** At this time, it might be
17 appropriate to note that by agreement of the parties we
18 would have Mr. Baker present his surrebuttal testimony
19 at the same time as he presents his direct.

20 **CHAIRMAN GRAHAM:** And that's Witness --

21 **MR. WRIGHT:** Kenneth E. Baker, Mr. Chairman.

22 **CHAIRMAN GRAHAM:** Okay. Is it just Baker? Is
23 Steve Chriss going to do the same?

24 **MR. WRIGHT:** Mr. Chriss did not present
25 surrebuttal testimony, Mr. Chairman, so it is just

1 Mr. Baker.

2 **CHAIRMAN GRAHAM:** Do the rest of the parties
3 want to do that as well, do the direct and rebuttal
4 together?

5 **MS. TRIPLETT:** Mr. Chairman, Duke Energy
6 Florida is amenable to that, and I think it's already
7 marked by asterisk to show that. So Mr. Duff would just
8 be going before Mr. Floyd, and then there would be the
9 Tampa Electric witnesses.

10 **CHAIRMAN GRAHAM:** Okay. I heard somebody
11 click.

12 **MS. TAN:** And then the only witness that is
13 still available in terms of doing their direct and
14 surrebuttal testimony would be Witness Pollock for
15 FIPUG, if they're interested in putting up their
16 testimonies together.

17 **MS. KAUFMAN:** I am going to have to check on
18 that and let you know, if that's all right. I just
19 don't have an answer to that. I can let you know by the
20 time we have to get all our prehearing changes in.

21 **CHAIRMAN GRAHAM:** Okay.

22 **MS. KAUFMAN:** But I did have another issue
23 with Mr. Pollock, if it's my turn.

24 **CHAIRMAN GRAHAM:** Sure.

25 **MS. KAUFMAN:** Due to Mr. Pollock's

1 availability, I know this hearing has been set for two
2 days and I know there's been some email traffic with the
3 other parties, but if it's at all possible, he would
4 like to testify on the second day of the hearing. Some
5 parties have indicated they don't know if the hearing
6 will -- if the second day will be needed. But I'd just
7 throw that out as a request to the parties due to his
8 ability to get here.

9 **CHAIRMAN GRAHAM:** I can tell you my plan is
10 not to be here a second day.

11 **MS. KAUFMAN:** Well, if that's the case, then
12 I'm going to speak to Mr. Pollock.

13 **CHAIRMAN GRAHAM:** Now, I guess I'd be amenable
14 to taking him as the last, unless that's a concern for
15 somebody.

16 Okay. Here comes the concerns.

17 (Laughter.)

18 **MS. KAUFMAN:** Why did I know that?

19 **MS. CANO:** Well, as one of the Petitioners, it
20 seems appropriate that Mr. Pollock would take the stand
21 at the beginning of the proceeding consistent with the
22 order of witnesses presented in the draft Prehearing
23 Order.

24 If there's truly a conflict that can't be
25 resolved, we have offered to stipulate the testimony

1 and exhibits of the witness so that he doesn't have
2 to travel at all, and that offer still stands.

3 **CHAIRMAN GRAHAM:** So say you all?

4 **MR. BEASLEY:** We're onboard with that, sir.

5 **MR. GRIFFIN:** Yes, sir.

6 **MS. TRIPLETT:** Yes, sir.

7 **MS. KEATING:** Yes, sir.

8 **MS. KAUFMAN:** Well, number one, at this point
9 we're certainly not prepared to stipulate in
10 Mr. Pollock's testimony. It -- I think it would be very
11 helpful if he would -- could go at the end. I think
12 that traditionally in these proceedings, at least in my
13 experience, the parties have all worked together to
14 accommodate the various schedules of the witnesses.
15 Mr. Pollock is a witness well known to the other parties
16 in this proceeding.

17 **CHAIRMAN GRAHAM:** Is there a specific witness
18 that anybody feels needs to go after Mr. Pollock? I
19 won't bite your head off, I promise. Let's take about
20 five minutes and think about it. Let's take a break for
21 about five minutes.

22 (Recess taken.)

23 **CHAIRMAN GRAHAM:** Yes, sir.

24 **MR. BEASLEY:** Mr. Chair, we have a couple of
25 alternatives to propose for your consideration, the

1 first of which is recognizing that the issues are framed
2 up pretty well in all of the documents and pleadings and
3 the testimony and witnesses of the exhibits -- or of the
4 witnesses. The first alternative would be to have this
5 a paper hearing where we would brief the Commissioners
6 on all of the testimony and exhibits and state our
7 positions and handle it that way.

8 The other alternative would be for us to
9 meet on day two of the hearing schedule, have the
10 witnesses go in the order in which they're
11 scheduled, and proceed in that fashion.

12 And we think either of those would be
13 legitimate alternatives that would solve
14 Mr. Pollock's scheduling.

15 **CHAIRMAN GRAHAM:** Then I believe that makes it
16 problematic for Wal-Mart, because I thought they had to
17 go on the 22nd and they can't make the 23rd.

18 **MR. WRIGHT:** That's correct. They have a
19 conflict on the 23rd, Mr. Chairman.

20 **CHAIRMAN GRAHAM:** Okay. Well, option one,
21 making this all a paper deal.

22 **MR. WRIGHT:** I would have to consult with my
23 client. I don't believe that we would be agreeable to
24 that, Mr. Chairman.

25 **MS. KAUFMAN:** I don't think FIPUG would be

1 agreeable to that either, Mr. Chairman.

2 And I just wanted to point out one thing,
3 if I might, that Mr. Wright actually pointed out to
4 me. I didn't have the most up-to-date copy of the
5 prehearing, but we talked about Mr. Pollock's
6 surrebuttal, so he would -- if we keep the natural
7 order of things, he would be going -- well, he's not
8 listed last, but he would be going toward the end
9 anyway. So if he takes the stand twice or if we do
10 it separately, he would still be at the end of the
11 batting order.

12 **CHAIRMAN GRAHAM:** Well, you have his direct.
13 He's supposed to be first. We agreed that we're going
14 to take him after the two Wal-Mart witnesses; is that
15 correct?

16 **MS. KAUFMAN:** Well, I was, I was thinking if
17 the hearing went for two days, he would go on day two,
18 wherever that fell out in the order.

19 **CHAIRMAN GRAHAM:** Well, we have two days set
20 aside.

21 **MS. KAUFMAN:** Understood.

22 **CHAIRMAN GRAHAM:** But if the hearing is done
23 in one day --

24 **MS. KAUFMAN:** I know. I totally understand,
25 Mr. Chairman.

1 **CHAIRMAN GRAHAM:** Okay.

2 **MR. WRIGHT:** Mr. Chairman?

3 **CHAIRMAN GRAHAM:** Mr. Wright.

4 **MR. WRIGHT:** Just briefly. Thank you.

5 **CHAIRMAN GRAHAM:** Sure.

6 **MR. WRIGHT:** Like you, I think this is going
7 to be a one-day hearing. My understanding is
8 Mr. Pollock can be here in the early afternoon of the
9 first day of the hearing.

10 The simple point I would make is that as
11 the petition -- the effective Petitioners seeking
12 the affirmative relief here, Wal-Mart and FIPUG
13 really should, in the normal course of business,
14 have the opportunity both to go first and last.
15 Accordingly, Mr. Pollock going last and taking his
16 direct and his surrebuttal together as potentially
17 the last witness in the case is really completely
18 appropriate. And, frankly, this is the kind of
19 thing that we have always, in my experience,
20 collegially worked out. I don't think there's any
21 reason for him not to be allowed to present his
22 direct and surrebuttal together last. Thank you.

23 **CHAIRMAN GRAHAM:** Well, then I think the
24 problem you run into is then people want to separate
25 their direct and their surrebuttals.

1 **MR. WRIGHT:** My understanding -- I thought
2 that FIPUG was willing to have Mr. Pollock testify
3 together with his direct and surrebuttal, just last as
4 opposed to first. And we are willing to have Mr. Baker
5 go first and present his direct and surrebuttal
6 together, but that's a -- that's as much a matter of
7 convenience for his travel schedule as anything else so
8 he wouldn't have to be here on the second day.

9 **CHAIRMAN GRAHAM:** I understand what you're
10 saying, but that doesn't mean that Mr. Duff doesn't want
11 to go last. Because, according to this list I have in
12 front of me, he's the last person on here.

13 **MR. WRIGHT:** And in response to that, I would
14 simply make the point that they are the opponents of the
15 Petitioners' positions here, and accordingly they really
16 should be in the middle. And Mr. Pollock should have
17 the opportunity, as a Petitioner, to go last if the
18 Petitioners so wish.

19 **MS. TAN:** Chairman, at this time Mr. Duff has
20 said that they will do his rebuttal and surrebuttal
21 together, so he will actually not be last. This is just
22 reflective of the order. If you notice, he's denoted.
23 And what will happen in the new Prehearing Order is
24 it'll reflect that he'll go in the beginning.

25 **CHAIRMAN GRAHAM:** But tell me if I'm wrong.

1 What I'm seeing is Mr. Pollock has not agreed to do --
2 well, I think people want to have testimony after
3 Mr. Pollock's direct. And if he wants to do his
4 surrebuttal and his direct together, then it should all
5 be at the beginning and not necessarily all at the end.
6 Now don't get me wrong, I don't have a problem -- if
7 we're still here and we can get all this done on the
8 22nd --

9 **MR. WRIGHT:** I don't -- I think your premise
10 is not consistent with what I've heard. What I've heard
11 is that Duke is happy for Mr. Duff to present his
12 surrebuttal along with his rebuttal, which would put him
13 in the middle pack, thus leaving only those who might be
14 providing surrebuttal, which would only be at that point
15 the Petitioners' witnesses, Mr. Baker on behalf of
16 Wal-Mart and Mr. Pollock on behalf of FIPUG, going last
17 in any event.

18 I don't think Duke has expressed a
19 particular desire that Mr. Duff be allowed to follow
20 Mr. Pollock. And even if they did, I would say that
21 since we're the Petitioners, normally Petitioners
22 get to go first and last, and that he should have
23 that opportunity. And Mr. Baker has already agreed
24 to go put his surrebuttal on with his direct at the
25 outset of the hearing.

1 **CHAIRMAN GRAHAM:** Yes, please.

2 **MS. TRIPLETT:** Mr. Chairman -- thank you,
3 Mr. Chairman. Let me just say from Duke's perspective,
4 my biggest concern was pushing the hearing to a second
5 day when that wasn't necessary. That's the first I've
6 heard that Mr. Pollock was actually available on the
7 first day and could be in the afternoon. So I don't
8 think it's -- from my perspective, if he wants to go
9 last, so be it.

10 **CHAIRMAN GRAHAM:** Is that problem solved?

11 **MS. KAUFMAN:** Just so I understand now, since
12 I'm the one that started this controversy, where we are
13 now is with Mr. Pollock going last. And I will -- I
14 will be sure and let the parties know that we're
15 amenable to doing his direct and his -- I guess that's
16 how it would come out, he would be doing his direct and
17 his rebuttal together.

18 **CHAIRMAN GRAHAM:** I guess my question is --

19 **MS. KAUFMAN:** On the first day, assuming that
20 we get there.

21 **CHAIRMAN GRAHAM:** I guess my question is --
22 and, Mary Anne, maybe you can chime in on this first and
23 then we can open it up to everybody else -- it's not
24 problematic for -- because a lot of people are doing
25 their direct and their surrebuttal together, but it's

1 not problematic that he's doing both of those at the end
2 of all this.

3 **MS. HELTON:** It probably depends on to whom
4 you direct that question. We have certainly been
5 flexible in the past with all of the parties sitting at
6 the table with respect to when their witnesses can come
7 and whether they provide direct and rebuttal testimony
8 together. And it's an accommodation that I have seen I
9 think just about everybody be at the receiving end of in
10 prior proceedings. So I don't think there's any legal
11 impediment to that happening. Is it irregular a little
12 bit? Yes. But there's no legal impediment to doing so.

13 **CHAIRMAN GRAHAM:** So the IOUs, you all say
14 that you're fine with him going last. No.

15 **MS. TRIPLETT:** That was just me. I'm sorry.
16 That was just for Duke, and they were probably kicking
17 me.

18 **CHAIRMAN GRAHAM:** That's why I was asking.

19 **MS. TRIPLETT:** Thanks.

20 **MS. CANO:** Yeah. From FPL's perspective, if
21 there's truly a conflict that can't be avoided here,
22 yes, of course, we're willing to work with the parties,
23 as we typically do, assuming none of the other solutions
24 are acceptable.

25 **MR. GRIFFIN:** That is correct for Gulf Power

1 as well.

2 **MS. KEATING:** That's fine with FPU.

3 **CHAIRMAN GRAHAM:** Before I -- before I open up
4 this can of worms, because it's always dangerous when I
5 think out loud, does it become a problem to have to
6 recall somebody because something comes out
7 unforeseeable during Pollock?

8 **MS. HELTON:** I think that's -- the way we do
9 our process, that's probably always a little bit of a
10 risk, and I think that's a risk that everybody takes in
11 allowing Mr. Pollock to go last. But everyone should
12 have the benefit of Mr. Pollock's prefiled direct and
13 rebuttal testimony, and presumably any cross-examination
14 of Mr. Pollock will not go outside the scope of that.
15 So that should help everybody in framing how they
16 proceed during the course of the proceeding.

17 **CHAIRMAN GRAHAM:** Okay. Staff, do you guys
18 have any problems with all this?

19 **MS. TAN:** No, we do not at this time.

20 **CHAIRMAN GRAHAM:** Thank you, Mary Anne.

21 Okay. So we've dealt with the witness
22 order. I guess if for some reason we -- what
23 time -- does this hearing start at 9:00, 9:30?

24 **MS. TAN:** 9:30.

25 **CHAIRMAN GRAHAM:** So if for some reason we get

1 through all this stuff, we will wait around until after
2 lunch for Mr. Pollock.

3 **MS. KAUFMAN:** Thank you, Mr. Chairman, and we
4 certainly appreciate the accommodation. And my first
5 phone call out of here is to Mr. Pollock.

6 **CHAIRMAN GRAHAM:** But if we wait until after
7 lunch, come 1:30 if he's not here, then things become
8 problematic.

9 **MS. KAUFMAN:** I hear you loud and clear.

10 **CHAIRMAN GRAHAM:** Okay. I just want to make
11 sure we understand. We may not be at that point, but
12 just so we're not sitting around for four hours waiting
13 on this guy to show up.

14 **MS. KAUFMAN:** Absolutely. I will assure -- I
15 will convey to him that he shall be here no later than
16 after lunch on whatever the first day of the hearing is.

17 **CHAIRMAN GRAHAM:** The 22nd.

18 **MS. KAUFMAN:** Yes.

19 **CHAIRMAN GRAHAM:** Okay.

20 **MS. TAN:** Mr. Chairman, may I just confirm?
21 That means that because Mr. Pollock will be going last,
22 that he will be doing his direct and surrebuttal
23 together.

24 **MS. KAUFMAN:** That's my understanding, subject
25 to check.

1 **MS. TAN:** There's -- how would you subject to
2 check?

3 **CHAIRMAN GRAHAM:** There is no check.

4 (Laughter.)

5 **MS. KAUFMAN:** That's my understanding.

6 **CHAIRMAN GRAHAM:** Okay. Okay. So we went
7 down through Section V or VI -- Section VI. So that
8 means everybody is fine with the first six sections.
9 Good. Everybody is nodding their head.

10 Section VII, everybody is fine.

11 Section VIII, staff.

12 **MS. TAN:** Chairman, the Order Establishing
13 Procedure requires that a party take a position at the
14 Prehearing Conference unless good cause is shown as to
15 why the party can't take a position at this time.
16 Accordingly, if a party's position in the draft
17 Prehearing Order is currently no position at this time,
18 then the party must change its position at today's
19 Prehearing Conference or show good cause why it can't
20 take a position. Otherwise, the Prehearing Order will
21 reflect no position for that party for that issue.

22 In addition, SACE has proffered an Issue 4
23 for consideration in this hearing.

24 **MR. CAVROS:** Good afternoon, Chairman. SACE
25 has proffered an issue which states, "Given the

1 provisions in Chapter 366 and 120 Florida Statutes, can
2 the Commission grant Petitioners' requested relief
3 through Commission order in this docket?" The reason
4 for inserting that was -- is essentially to preserve my
5 client's right to argue any legal issues surrounding
6 Petitioners' request.

7 As you may recall, there were some
8 informal discussions early last year regarding some
9 of these issues, and they never reached a natural
10 conclusion, if you will. So I would like to
11 preserve the right to argue this perspective if my
12 client chooses to do so.

13 That said, in reviewing Issue 2, it seems
14 as though this issue could be subsumed in Issue 2.
15 And if the Commission and the parties are of similar
16 mind, then we would withdraw this issue today.

17 **CHAIRMAN GRAHAM:** I see all my IOUs nodding
18 their heads correctly and everybody else seems to be
19 nodding their heads, and I know staff said that it can
20 be handled in Issue 2 or 3, so I am nodding my head as
21 well.

22 **MR. CAVROS:** Okay. Very well then. We will
23 withdraw the issue.

24 **CHAIRMAN GRAHAM:** Okay.

25 **MR. CAVROS:** Thank you.

1 **CHAIRMAN GRAHAM:** Okay. Anything else in
2 Section VIII?

3 Section IX, exhibit list.

4 **MS. TAN:** Chairman, staff will note that it
5 has prepared a Comprehensive Exhibit List which includes
6 all prefiled exhibits and includes those exhibits that
7 staff wishes to include in the record. We will check
8 with the parties prior to the hearing to determine if
9 there's any objections to the Comprehensive Exhibit List
10 or to any of staff's exhibits being entered into the
11 record.

12 **CHAIRMAN GRAHAM:** Section X.

13 **MS. TAN:** There are no proposed stipulations.

14 **CHAIRMAN GRAHAM:** XI.

15 **MS. TAN:** There are no pending motions.

16 **CHAIRMAN GRAHAM:** XII.

17 **MS. TAN:** There are no pending confidentiality
18 motions.

19 **CHAIRMAN GRAHAM:** XIII?

20 **MS. TAN:** Staff recommends post-hearing briefs
21 be no longer than 20 pages.

22 **CHAIRMAN GRAHAM:** Is there any problems or
23 concerns with that? Okay.

24 **MS. KAUFMAN:** I'm sorry, Mr. Chairman.

25 **CHAIRMAN GRAHAM:** Sure.

1 **MS. KAUFMAN:** I was looking for where that --
2 for where that was. That seems quite short to me, and
3 so I think we would like more than 20 pages. I'm not
4 recalling ever having a brief that short, though I know
5 you appreciate it being as short as it can be. But I
6 would like to say 40 pages, and, you know, we'll do what
7 we can to make it shorter.

8 **CHAIRMAN GRAHAM:** I just figure because this
9 is such -- I mean, the focus on this is pretty narrow,
10 but --

11 **MS. KAUFMAN:** It is. And since I'm not going
12 to be writing the brief, I'm a little hesitant to agree
13 to 20 pages. I wasn't aware that was really an issue.
14 It's not typical, at least in my memory, so.

15 **CHAIRMAN GRAHAM:** Staff, what's typical?

16 **MS. KAUFMAN:** 40, at least --

17 **MS. TAN:** I mean, it depends on the number of
18 issues in the docket. We have done 20 pages before. We
19 can do more if the parties and you decide that it is
20 necessary to have more information. Typically there is
21 40 pages, but that is adjustable.

22 **CHAIRMAN GRAHAM:** I guess since the burden is
23 on both Wal-Mart and FIPUG, I don't have a problem with
24 40.

25 **MS. KAUFMAN:** Thank you, Mr. Chairman.

1 **CHAIRMAN GRAHAM:** It doesn't mean we need to
2 fill all 40, but --

3 **MS. KAUFMAN:** Again, understood.

4 **MS. TAN:** Chairman, staff notes that the
5 briefs will be due on August 20th, 2015.

6 **CHAIRMAN GRAHAM:** Okay. All right. Let's
7 move on to XIV.

8 **MS. TAN:** Chairman, currently opening
9 statements are listed at ten minutes per party, unless
10 the parties choose to waive opening statements. Staff
11 suggests that the opening statements be limited to a
12 shorter time frame, and perhaps we can encourage the
13 parties to work together on opening statements.

14 **CHAIRMAN GRAHAM:** This is what I propose for
15 that: FIPUG will get ten; Wal-Mart will get ten; PCS
16 Phosphate, or White Springs Agricultural or whatever the
17 correct terminology, will get ten. So that will be 30
18 for you guys.

19 For the IOUs, the five of you, I was going
20 to give you 30 as well. You guys can kind of split
21 that up any way you want to do that, because it
22 seems like you guys' position is pretty similar.
23 Now, let me know if there's a concern with that.

24 And then, Mr. Cavros, you would get ten,
25 and OPC would get ten. It seems like everybody is

1 nodding their head, so is that okay?

2 **MS. CANO:** That's fine with FPL. Thank you.

3 **CHAIRMAN GRAHAM:** You guys get shortened a
4 little bit, but I think you can handle it.

5 Okay. Where else do we go from there?
6 Other matters.

7 **MS. TAN:** There are no other matters to
8 address.

9 **CHAIRMAN GRAHAM:** Is there anything else from
10 you guys? I do appreciate your patience. I'm sorry if
11 I confused you. I haven't done this in about two years.

12 I think that's it. I thank you very much
13 for your time. I think it should be interesting.
14 Make sure that Pollock is here at least by 1:30 on
15 the 22nd.

16 **MS. KAUFMAN:** Yes, sir. Understood.

17 **CHAIRMAN GRAHAM:** All right. And that all
18 being said, I think we're adjourned. Thank you very
19 much, and travel safe everybody.

20 (Prehearing Conference adjourned at 2:02
21 p.m.)

1 STATE OF FLORIDA)
2 COUNTY OF LEON) : CERTIFICATE OF REPORTER

3
4 I, LINDA BOLES, CRR, RPR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

8 IT IS FURTHER CERTIFIED that I
9 stenographically reported the said proceedings; that the
10 same has been transcribed under my direct supervision;
11 and that this transcript constitutes a true
12 transcription of my notes of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,
14 employee, attorney or counsel of any of the parties, nor
15 am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.

18 DATED THIS 10th day of July, 2015.

19
20
21
22
23
24
25


LINDA BOLES, CRR, RPR
FPSC Official Hearings Reporter
(850) 413-6734